

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOSEPH WELTY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 21-1843
)	
GEORGE DONKEWICZ, INMATE, SCI)	
GREENE, and DEPARTMENT OF)	District Judge W. Scott Hardy
CORRECTIONS,)	Chief Magistrate Judge Cynthia Reed Eddy
)	
Defendants.)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by Chief Magistrate Judge Cynthia Reed Eddy on June 22, 2022. (Docket No. 29). As background, the case was initiated by pro se Plaintiff Joseph Welty proceeding *in forma pauperis*. Plaintiff submitted a one-page document to the Court dated June 7, 2022, but received and filed on June 13, 2022, stating “I would like to drop this lawsuit against George Donkewicz, Inmate; SCI Greene, and Department of Corrections, please?” (Docket No. 26). This filing was construed as a Notice of Voluntary Dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), and the case was considered voluntarily dismissed and marked closed. (Docket No. 27). Thereafter, Plaintiff submitted a one-page document to the Court dated June 10, 2022, but received and filed on June 15, 2022, stating “I would like to reopen this lawsuit please?” (Docket No. 28). As explained in the R&R, given the liberal construction afforded to pro se filings, the Court construed Plaintiff’s filing as a Motion to Reopen the Case. The R&R recommends that Plaintiff’s Motion to Reopen the Case be denied, and this case remain dismissed. (Docket No. 29 at 1, 5).

Service of the R&R was made on Defendants through the Court's CM/ECF system, and any objections to same were due by July 6, 2022. Service of the R&R was made on Plaintiff by mail, and any objections were due by July 11, 2022. Thereafter, no party filed any objections to the R&R.¹

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(2), (b)(3); 28 U.S.C. § 636(b)(1). Here, however, because no party filed any objections to the R&R, this Court reviews the magistrate judge's decision for plain error. *See Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *see also* Fed. R. Civ. P. 72(b), Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.").

In this case, upon careful review of the R&R and the entire record, and finding no plain error on the face of the record, the Court will accept Judge Eddy's recommendation and adopt the R&R as the opinion of the Court. As such, Plaintiff's Motion to Reopen the Case will be denied for the reasons set forth in the R&R.

Accordingly, in view of the foregoing, the Court enters the following Order:

AND NOW, this 2nd day of September, 2022, IT IS HEREBY ORDERED that the R&R (Docket No. 29) is ADOPTED as the Opinion of the Court;

¹ Plaintiff submitted a one-page document to the Court dated June 22, 2022, but received and filed on June 27, 2022, stating "I would like to reopen this lawsuit please?" (Docket No. 30). The Court construes this filing as a repeat of Plaintiff's original Motion to Reopen the Case, and it will be denied as moot given the Court's ruling set forth herein. Additionally, on September 1, 2022, pro se Defendant George Donkewicz filed a Motion to Dismiss Plaintiff's Complaint, (Docket No. 31), which also will be denied as moot in light of the Court's ruling.

For the reasons set forth in the R&R, IT IS FURTHER ORDERED that Plaintiff's Motion to Reopen the Case (Docket No. 28) is DENIED, and this case shall remain dismissed; and,

Given that the case shall remain dismissed, IT IS FURTHER ORDERED that Plaintiff's subsequently filed Motion to Reopen the Case, (Docket No. 30), and Defendant George Donkewicz's Motion to Dismiss Plaintiff's Complaint, (Docket No. 31), are DENIED AS MOOT.

s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc: All counsel of record (via ECF)

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